

(v) Type of alternative fuel the vehicle is capable of operating on; and

(6) Number of light duty alternative fueled vehicles acquired by municipal and private fleets during the model year under an approved Light Duty Alternative Fueled Vehicle Plan (if applicable).

(c) If credits are applied against vehicle acquisition requirements, then a credit activity report, as described in subpart F of this part, must be submitted with the report under this section to DOE.

(d) Records shall be maintained and retained for a period of three years.

(e) All reports, marked "Annual Report," shall be sent to the Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE-33, 1000 Independence Ave., SW., Washington, DC, 20585, or such other address as DOE may provide by notice in the FEDERAL REGISTER.

**§ 490.206 Violations.**

Violations of this subpart are subject to investigation and enforcement under subpart G of this part.

**Subpart D—Alternative Fuel Provider Vehicle Acquisition Mandate**

**§ 490.300 Purpose and Scope.**

This subpart implements section 501 of the Act, which requires, subject to some exemptions, that certain annual percentages of new light duty motor vehicles acquired by alternative fuel providers must be alternative fueled vehicles.

**§ 490.301 Definitions.**

In addition to the definitions found in section 490.2, the following definitions apply to this subpart—

*Affiliate* means a person that, directly or indirectly, controls, is controlled by, or is under common ownership or control of a person subject to vehicle acquisition requirements in this part.

*Alternative Fuels Business* means activities undertaken to derive revenue from—

(1) Producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or re-

tail any alternative fuel other than electricity; or

(2) Generating, transmitting, importing, or selling at wholesale or retail electricity.

*Business Unit* means a semi-autonomous major grouping of activities for administrative purposes and organizational structure within a business entity and that is controlled by or under control of a person subject to vehicle acquisition requirements in this part.

*Division* means a major administrative unit of an enterprise comprising at least several enterprise units or constituting a complete integrated unit for a specific purpose and that is controlled by or under control of a person subject to vehicle acquisition requirements in this part.

*Normal Requirements and Practices* means the operating business practices and required conditions under which the principal business of a person subject to vehicle acquisition requirements in this part operates.

*Principal Business* means the sales-related activity that produces the greatest gross revenue.

*Substantial Portion* means that at least 30 percent of the annual gross revenue of a covered person is derived from the sale of alternative fuels.

*Substantially Engaged* means that a covered person, or affiliate, division, or other business unit thereof, regularly derives more than a negligible amount of sales-related gross revenue from an alternative fuels business.

**§ 490.302 Vehicle acquisition mandate schedule.**

(a) Except as provided in section 490.304 of this part, of the light duty motor vehicles newly acquired by a covered person described in section 490.303 of this part, the following percentages shall be alternative fueled vehicles for the following model years:

(1) 30 percent for model year 1997.

(2) 50 percent for model year 1998.

(3) 70 percent for model year 1999.

(4) 90 percent for model year 2000 and thereafter.

(b) Except as provided in section 490.304 of this part, this acquisition schedule applies to all light duty motor vehicles that a covered person newly

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acquires for use within the United States.

(c) If, when the mandated acquisition percentage of alternative fuel vehicles is applied to the number of new light duty motor vehicles to be acquired by a covered person subject to this subpart, a number results that requires the acquisition of a partial vehicle, an adjustment will be made to the required acquisition number by rounding down to the next whole number if the fraction is less than one half and by rounding up the number of vehicles to the next whole number if the fraction is equal to or greater than one half.

(d) Only acquisitions satisfying the mandate, as defined by section 490.305, count toward compliance with the acquisition schedule in paragraph (a) of this section.

(e) A covered person that is first subject to the acquisition requirements of this part after model year 1997 shall acquire alternative fueled vehicles in the next model year at the percentage applicable to that model year, according to the schedule in paragraph (a) of this section, unless the covered person is granted an exemption or reduction of the acquisition percentage pursuant to the procedures and criteria in section 490.308.

### § 490.303 Who must comply.

(a) Except as provided by paragraph (b) of this section, a covered person must comply with the requirements of this subpart if that person is—

(1) A covered person whose principal business is producing, storing, refining, processing, transporting, distributing, importing or selling at wholesale or retail any alternative fuel other than electricity; or

(2) A covered person whose principal business is generating, transmitting, importing, or selling, at wholesale or retail, electricity; or

(3) A covered person—

(i) Who produces, imports, or produces and imports in combination, an average of 50,000 barrels per day or more of petroleum; and

(ii) A substantial portion of whose business is producing alternative fuels.

(b) This subpart does not apply to a covered person or affiliate, division, or

other business unit of such person whose principal business is—

(1) transforming alternative fuels into a product that is not an alternative fuel; or

(2) consuming alternative fuels as a feedstock or fuel in the manufacture of a product that is not an alternative fuel.

### § 490.304 Which new light duty motor vehicles are covered.

(a) *General rule.* Except as provided in paragraph (b) of this section, the vehicle acquisition mandate schedule in section 490.302 of this part applies to all light duty motor vehicles newly acquired for use within the United States by a covered person described in section 490.303 of this part.

(b) *Exception.* If a covered person has more than one affiliate, division, or other business unit, then section 490.302 of this part only applies to light duty motor vehicles newly acquired by an affiliate, division, or other such business unit which is substantially engaged in the alternative fuels business.

### § 490.305 Acquisitions satisfying the mandate.

The following actions within the model year qualify as acquisitions for the purpose of compliance with the requirements of section 490.302 of this part—

(a) The purchase or lease of an Original Equipment Manufacturer light duty vehicle (regardless of the model year of manufacture), capable of operating on alternative fuels that was not previously under the control of the covered person;

(b) The purchase or lease of an after-market converted light duty vehicle (regardless of the model year of manufacture), that was not previously under the control of the covered person; and

(c) The conversion of a newly purchased or leased light duty vehicle to operate on alternative fuels within four months after the vehicle is acquired by a covered person; and

(d) The application of alternative fueled vehicle credits allocated under subpart F of this part.